

Notice of Allowability

Application No.

10/087,523

Applicant(s)

KLEIN ET AL.

Examiner

Gerald G. Leffers Jr., PhD

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/1/2004.
2. ☒ The allowed claim(s) is/are 51-65 (now claims 1-15).
3. ☒ The drawings filed on 11 June 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of
- Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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Art Unit: 1636

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John Burke on 4/13/2005.

The application has been amended as follows:

In the specification:

At page 1, lines 5-8 have been deleted and replaced with the following updated claim for priority: --This application is a continuation application of U.S. Application Serial No. 09/193,834, filed 11/17/1998 and now abandoned, which claims benefit of U.S. Provisional Application No. 60/084,949, filed 5/11/1998, and of U.S. Provisional Application No. 60/084,194, filed 11/17/1997.--

In the claims:

In claim 54, line 2, the term "consisting of" has been deleted and replaced with the words --that comprises--.

In claim 57, part (b) line 1, the words --from the circular plasmid library-- have been inserted after the word "amplifying" and prior to the words "a polynucleotide sequence".

Art Unit: 1636

In claim 57, part (c) line 4, the word “region” has been deleted and replaced with the term --sequence--, so that the phrase now reads “...wherein the first sequence and the second sequence are capable of homologously...”.

In claim 59, line 2, the term “consisting of” has been deleted and replaced with the words --that comprises--.

In claim 62, line 1, the words “consists of” have been replaced with the term --comprises--.

In claim 63, line 1, the words “consists of” have been replaced with the term --comprises--.

In claim 64, line 1, the words “consists of” have been replaced with the term --comprises--.

In claim 65, line 1, the words “consists of” have been replaced with the term --comprises--.

Reasons for Allowance

The following is an examiner’s statement of reasons for allowance: applicants’ amendment of the claims and submission of the Terminal Disclaimer over copending application

Art Unit: 1636

09/885,816 (now U.S. Patent No. 6,815,185) in the response filed on 12/1/2004 has obviated the outstanding grounds of rejection.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

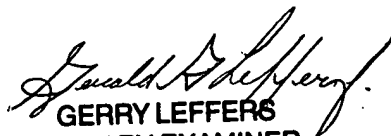
Conclusion

Claims 51-65 are allowed (now claims 1-15).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald G. Leffers Jr., PhD whose telephone number is (571) 272-0772. The examiner can normally be reached on 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel can be reached on (571) 272-0781. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


GERALD G. LEFFERS
PRIMARY EXAMINER

Gerald G Leffers Jr., PhD
Primary Examiner
Art Unit 1636

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